

July 29, 1955

Attorney General's

Elmer T. Bourque

Adelard E. Cote, Commissioner
Labor Department
15 Pleasant Street
Concord, N. H.

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CONCORD, N.H.

Dear Mr. Cote:

In your letter of July 20 you asked whether the new certified mail service can be substituted for registered mail in giving notice of a hearing under Revised Laws, chapter 216, section 35.

Revised Laws, chapter 7, section 35-a, as inserted by chapter 242, Laws of 1955, provides as follows:

"32-a. Registered Mail. The words 'registered mail' when used in connection with the requirement of notice by mail shall mean either registered mail or certified mail."

You also asked whether hearings on the question of lump sum settlements under section 31 should be handled in the same way as hearings under section 35 as far as notice is concerned. As you know, section 31 contains no express provision for a hearing. The requirement of hearing arose by judicial interpretation in King v. Kniznick, 98 N.H. 247. In the opinion of the Court delivered by Judge Kennison, the following appears on page 250:

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"As bearing on the future administration of the Workmen's Compensation Law it may be noted that the discretion given the Commissioner of Labor involves more than paper approval. Since lump sum settlements may be the exception rather than the rule (Bolduc v. Company, supra, 239) the Commissioner's discretion would ordinarily be exercised at a conference or hearing at which time the parties would be able to state the reasons for and against making a lump sum settlement. This would appear to be the most practical way to comply with the statute which requires that the settlement be 'in the best interests of all concerned' as provided in section 31 of the Workmen's Compensation Law."

Elmer T. Bourque

Adelard E. Cote -- 2.

July 29, 1955.

SUBJECT

TO

The important thing is that the parties be given an opportunity to state their views with respect to the desirability of your approving a lump sum settlement. There is no requirement that the notice be in any particular form. If you believe that it would be advisable you may, of course, give notice similar to that required under section 35.

Very truly yours,

Dear Sir:

Under the provisions of Section 35, Elmer T. Bourque, Chief Labor Law Assistant, provided that notice of Law Assistant be sent by registered mail. With the new certified mail service recently introduced we write to inquire whether this could be substituted for registered mail in this instance. As I know it would be a great saving if this were possible.

ETB:L

Will you also please advise whether hearings held on the question of a lump sum, as provided in Section 35, should be handled in the same way as hearings under Section 35 as far as the notice is concerned.

Very truly yours,

Adelard E. Cote

Labor Commissioner

H/ms